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Attorneys for Defendant Bethel Solutions Inc.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

KAREN PRIMERA,

Plaintiff,

v.

BETHEL SOLUTIONS, INC.,

Defendant.

Case No. 3:20-cv-00157-JMK

ANSWER TO AMENDED COMPLAINT

Defendant Bethel Solutions Inc., by and through counsel of record Ducey & Associates LLC, answers plaintiff's Amended Complaint as follows.

I. JURISDICTION

1.1. Defendant is without sufficient information and belief to admit or deny the allegations in paragraph 1.1 and therefore denies same.

1.2. It is admitted that Bethel Solutions does business within the Third Judicial District, State of Alaska. The remaining allegations in paragraph 1.2 are denied.

1.3. The allegations in paragraph 1.3 allege legal conclusions for which no answer is required. However, to the extent an answer is required, the allegations are denied.

II. FACTS

2.1. The allegations in paragraph 2.1 are admitted.

2.2. It is admitted that Karen Primera was originally hired as an hourly employee at the hourly rate of \$25.00 an hour and received several increases in her rate of pay. The remaining allegations in paragraph 2.2 are denied.

2.3. It is admitted that on November 9, 2017, plaintiff was promoted from HR Manager Staff Accountant to Payroll Manager and received and her status changed from non-exempt to a salaried position, making \$77,500.00 a year. The remaining allegations in paragraph 2.3 are denied.

2.4. The allegations in 2.4 are denied.

2.5. The allegations in paragraph 2.5 are denied.

2.6. It is admitted that on October 30, 2018, the plaintiff's salary was increased to \$81,000.00 a year. The remaining allegations in 2.6 are denied.

2.7. The allegations in paragraph 2.7 are denied.

2.8. The allegations in paragraph 2.8 are denied.

2.9. It is admitted that on March 3, 2020, the plaintiff's at-will employment was terminated. The remaining allegations in paragraph 2.9 are denied.

CAUSES OF ACTION

A. Violation of Fair Labor Standards Act of 1938, as Amended (29 USC §201 et seq.): Failure to Pay Overtime or Properly Compensate Employee.

3.1. Defendant restates and incorporates the allegations in 1.1 through 2.9 above as though fully set forth.

3.2. The allegations in paragraph 3.2 are denied.

3.3. The allegations in paragraph 3.3 are denied.

3.4. The allegations in paragraph 3.4 are denied.

B. Violation of Fair Labor Standard Act of 1938, as Amended (29 USC §201 et seq.): Retaliation.

3.5. Defendant restates and incorporates the allegations in 1.1 through 3.4 above as though fully set forth.

3.6. The allegations in paragraph 3.6 are denied.

3.7. The allegations in paragraph 3.7 are denied.

3.8. The allegations in paragraph 3.8 are denied.

AFFIRMATIVE DEFENSES

1. The complaint, in whole or in part, fails to state a claim upon which relief can be granted.

2. The complaint, in whole or in part, is barred by the applicable statute of limitations.

3. To the extent plaintiff claims she is entitled to overtime pay, she was exempt from overtime under the FLSA as an exempt executive or administrative or other exempt employee.

4. To the extent there was any violation of the FLSA, as amended, it was in good faith and the defendant had reasonable grounds for believing its actions or omissions did not violate the law; thus, precluding a finding of willfulness.

5. To the extent there was any violation of the FLSA, as amended, the *de minimis* rule applies to any such violations.

6. Plaintiff is not entitled to compensation under the FLSA, as amended, for any preliminary and postliminary work for which she may seek to recover.

7. To the extent plaintiff intentionally falsified her time sheets, and/or knowingly failed to report all time worked, she is barred from recovery.

8. Plaintiff's damages, if any, are barred by the equitable doctrine of unclean hands.

9. Plaintiff and defendant reached a reasonable agreement at the number of hours for which compensation was due.

10. To the extent plaintiff was paid wages and other monies by defendant in excess of those to which she was legally entitled, those monies should be set off against any alleged monies owed to plaintiff.

11. Defendant's employment decisions regarding plaintiff would have occurred even in the absence of her allegedly protected conduct, and/or in the absence of the

alleged discrimination/retaliation, since there were legitimate business reasons for the actions taken.

12. To the extent defendant's employment decisions regarding plaintiff are deemed to have been taken for a discriminatory motive, the employer would have taken the same employment action in the absence of her protected activity.

13. The plaintiff unreasonably failed to take advantage of corrective opportunities, thus barring recovery.

14. Defendant reserves the right to assert additional affirmative defenses as more facts become known.

PRAYER FOR RELIEF

WHEREFORE, defendant Bethel Solutions, Inc., prays for the following relief:

1. Plaintiff takes nothing for her suit and that the case against defendant be dismissed with prejudice;

2. The court award defendant its costs and attorneys' fees in having to defend this action; and

3. For such other relief as the court deems just and appropriate.

DATED this 29th day of June, 2020, at Anchorage, Alaska.

DUCEY & ASSOCIATES LLC
Attorneys for Defendants

/s/ Cynthia L. Ducey
Alaska Bar No. 8310161

CERTIFICATE OF SERVICE

I certify that on June 29, 2020, a copy of the foregoing document was served electronically on:

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/s/ Cynthia L. Ducey

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